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AN ACT
RELATING TO WATER; REQUIRING MUNICIPALITIES, COUNTIES AND
OTHER COVERED ENTITIES TO ADOPT WATER CONSERVATION AND
DROUGHT MANAGEMENT PLANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 3, Article 17 NMSA 1978 is enacted to read:

"WATER CONSERVATION AND DROUGHT MANAGEMENT PLANS. -- A municipality shall consider ordinances and codes to encourage water conservation and drought management planning pursuant to the provisions of Section 3 of this act."

Section 2. A new section of Chapter 4 NMSA 1978 is enacted to read:

"WATER CONSERVATION AND DROUGHT MANAGEMENT PLANS. -- A county shall consider ordinances and codes to encourage water conservation and drought management planning pursuant to the provisions of Section 3 of this act."

Section 3. A new section of Chapter 72, Article 14 NMSA 1978 is enacted to read:

"WATER CONSERVATION PLANS-- MUNICIPALITIES, COUNTIES AND WATER SUPPLIERS. --

A. As used in this section, "covered entity" means municipalities, counties and any other person that supplies, distributes or otherwise provides at least five

1 hundred
2 acre-feet of water annually for domestic, commercial,
3 industrial or government customers for other than
4 agricultural purposes, but does not include Indian tribes,
5 pueblos, nations, chapters or any entity of a tribe, pueblo,
6 nation or chapter.

7 B. A covered entity may develop, adopt and
8 submit to the state engineer by December 31, 2005 a
9 comprehensive water conservation plan, including a drought
10 management plan.

11 C. The manner in which the covered entity
12 develops, adopts and implements a comprehensive water
13 conservation plan shall be determined by the covered entity.
14 The plan shall be accompanied by a program for its
15 implementation.

16 D. In developing a water conservation plan
17 pursuant to this section:

18 (1) municipalities and counties shall
19 consider ordinances and codes to encourage conservation
20 measures; covered entities without ordinance or code
21 enforcement ability shall consider incentives to encourage
22 voluntary compliance with a set of conservation guidelines.
23 Covered entities shall identify and implement best practices
24 in their operations to improve conservation of the
25 resources; and

1 (2) the covered entity shall consider, and
2 incorporate into its plan if appropriate, at least the
3 following:

4 (a) water-efficient fixtures and
5 appliances, including toilets, urinals, showerheads and
6 faucets;

7 (b) low-water-use landscaping and
8 efficient irrigation;

9 (c) water-efficient commercial and
10 industrial water-use processes;

11 (d) water reuse systems for both
12 potable and nonpotable water;

13 (e) distribution system leak repair;

14 (f) dissemination of information
15 regarding water-use efficiency measures, including public
16 education programs and demonstrations of water-saving
17 techniques;

18 (g) water rate structures designed to
19 encourage water-use efficiency and reuse in a fiscally
20 responsible manner; and

21 (h) incentives to implement water-use
22 efficiency techniques, including rebates to customers or
23 others, to encourage the installation of water-use
24 efficiency and reuse measures.

25 E. The water conservation plan shall contain a

1 section that references the regional water plans in the area
2 that have been accepted by the interstate stream commission.
3 The section shall cite conservation guidelines mentioned in
4 the regional plan that have been adopted into the covered
5 entity's water conservation plan.

6 F. A covered entity may at any time adopt
7 changes to its water conservation plan and shall submit
8 changes to the state engineer.

9 G. After December 31, 2005, neither the water
10 trust board nor the New Mexico finance authority shall
11 accept an application from a covered entity for financial
12 assistance in the construction of any water diversion,
13 storage, conveyance, water treatment or wastewater treatment
14 facility unless the covered entity includes a copy of its
15 water conservation plan. "

16 Section 4. Section 6-21-23 NMSA 1978 (being Laws 1992,
17 Chapter 61, Section 23, as amended) is amended to read:

18 "6-21-23. PROHIBITED ACTIONS. --The authority shall
19 not:

20 A. lend money or make a grant other than to a
21 qualified entity;

22 B. purchase securities other than from a
23 qualified entity or other than for investment as provided in
24 the New Mexico Finance Authority Act;

25 C. lease a public project to any entity other

1 than a qualified entity; except that the authority may lease
2 a public project to any entity following termination of a
3 lease of the public project to a qualified entity if leasing
4 the public project to an entity other than a qualified
5 entity is necessary to avoid forfeiture or impairment of the
6 public project or a default on bonds whose payment is
7 secured, in whole or in part, by the public project or by
8 lease rentals from the public project;

9 D. deal in securities within the meaning of or
10 subject to any securities law, securities exchange law or
11 securities dealers law of the United States or of the state
12 or of any other state or jurisdiction, domestic or foreign,
13 except as authorized in the New Mexico Finance Authority
14 Act;

15 E. issue bills of credit or accept deposits of
16 money for time on demand deposit or administer trusts or
17 engage in any form or manner, or in the conduct of, any
18 private or commercial banking business, or act as a savings
19 bank or savings and loan association or any other kind of
20 financial institution except as authorized in the New Mexico
21 Finance Authority Act;

22 F. engage in any form of private or commercial
23 banking business except as authorized in the New Mexico
24 Finance Authority Act;

25 G. lend money, issue bonds, including public-

1 private partnership project bonds, or make a grant for the
2 promotion of gaming or a gaming enterprise or for
3 development of infrastructure for a gaming facility; or

4 H. after December 31, 2005, except in case of an
5 emergency, accept an application for financial assistance
6 from a municipality, county or other covered entity for a
7 water or wastewater project unless it is submitted with a
8 water conservation plan or a water conservation plan is on
9 file with the state engineer in accordance with the
10 provisions of Section 3 of this 2003 act."

11 Section 5. Section 72-4A-7 NMSA 1978 (being Laws 2001,
12 Chapter 164, Section 7) is amended to read:

13 "72-4A-7. CONDITIONS FOR GRANTS AND LOANS.--

14 A. Grants and loans shall be made only to state
15 agencies or to political subdivisions that:

16 (1) agree to operate and maintain the water
17 project so that it will function properly over the
18 structural and material design life, which shall not be less
19 than twenty years;

20 (2) require the contractor of the
21 construction project to post a performance and payment bond
22 in accordance with the requirements of Section 13-4-18 NMSA
23 1978;

24 (3) provide written assurance signed by an
25 attorney or provide a title insurance policy that the

1 political subdivision has proper title, easements and rights
2 of way to the property upon or through which the water
3 project proposed for funding is to be constructed or
4 extended;

5 (4) meet the requirements of the financial
6 capability set by the board to ensure sufficient revenues to
7 operate and maintain the water project for its useful life
8 and to repay the loan;

9 (5) agree to properly maintain financial
10 records and to conduct an audit of the project's financial
11 records;

12 (6) agree to pay costs of originating
13 grants and loans as determined by rules adopted by the
14 board; and

15 (7) except in case of an emergency, submit
16 a water conservation plan with its application if required
17 to do so and one is not on file with the state engineer,
18 pursuant to Section 3 of this 2003 act.

19 B. Plans and specifications for a water project
20 shall be approved by the authority before grant or loan
21 disbursements to pay for construction costs are made to a
22 state agency or political subdivision.

23 C. Grants and loans shall be made only for
24 eligible items, which include:

25 (1) to match federal and local cost shares;

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surveys;

- (2) engineering feasibility reports;
- (3) contracted engineering design;
- (4) inspection of construction;
- (5) special engineering services;
- (6) environmental or archaeological
- (7) construction;
- (8) land acquisition;
- (9) easements and rights of way; and
- (10) legal costs and fiscal agent fees. "_____

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